

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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| LAWRENCE J. MILLS et al., | : | |
| | : | |
| v. | : | Civ. No. 19-19610 (RMB) |
| | : | |
| GOLDEN NUGGET ATLANTIC CITY | : | MEMORANDUM ORDER |
| LLC et al., | : | |
| Defendant | : | |

This matter comes before the Court upon a Motion to Set Aside Default [Docket No. 11] and a Motion For Default Judgment [Docket No. 12]. The Motion to Set Aside Default is Granted, the Motion For Default Judgment is DISMISSED as moot.

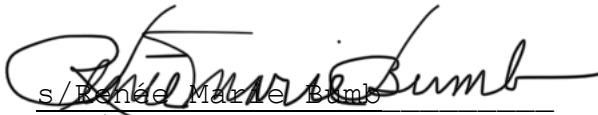
According to the Affidavits of Service, none, other than Defendant Wheeler, of the moving Defendants, Michael Flory, Carl Smallwood, Lance Moorhouse and Mark Devine, except Richard Wheeler, (the "Moving Defendants") were personally served [Docket No. 6]. They do, however, agree to waive service now. Moreover, the attorney of record did not receive approval to represent the Defendants until March 20, 2020, and counsel intends to file an answer within 7 days of the vacating of default.

The Clerk of the Court entered default against the Moving Defendants on March 6, 2020. The Clerk's Entry of Default will

be set aside. First, it appears to have been entered in error as it does not seem that the Moving Defendants were personally served. Moreover, the case law is well-settled that any doubt should be resolved in favor of the moving party so that cases cannot be decided on the merits. See, e.g., Farnese v. Bagnasio, 687 F.2d 761, 764 (3d Cir. 1982). As no default judgment has been entered, this case shall proceed to be resolved on the merits.

IT IS THEREFORE **ORDERED** on this 4th day of April 2020, that the Clerk's Order of Default is **VACATED** [Dkt. No. 11]; and

IT IS FURTHER **ORDERED** that the Motion for Default Judgment is **DISMISSED** as moot [Dkt. No. 12].


s/ Renée Marie Bumb
RENÉE MARIE BUMB
United States District Judge